IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

                                     ORDER

                 Plaintiff,

                                     07-cr-68-bbc

      v.

DION LAKE,

                 Defendant.

- -

In an order entered on February 1, 2012, I denied defendant Dion Lake's motion under 18 U.S.C. § 3582. Defendant has filed a notice of appeal and motion to proceed on appeal in forma pauperis.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Defendant had court-appointed counsel during the criminal proceedings. Therefore, he can proceed in forma pauperis on appeal unless I find that his appeal is taken in bad faith. In this case a reasonable person could not suppose that the appeal has some merit, as is

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required in order for the appeal to be taken in good faith. As I explained in the February 1, 2012 order, defendant is not eligible for a sentence reduction under § 3582 because the amendment does not have the effect of lowering defendant's guideline range. Because defendant is not eligible for a reduction, I will deny his request to proceed in forma pauperis on appeal.

Under Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by (1) an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and (2) a copy of this order.

ORDER

IT IS ORDERED that defendant Dion Lake's request for leave to proceed in forma pauperis on appeal is DENIED. I certify that defendant's appeal is not taken in good

faith. Defendant has the right to appeal this order certifying his appeal as not taken in good

faith.

Entered this 22d day of February, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge